

# McDermott Will & Emery

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PAGE 1/4 \* RCVD AT 12/13/2006 5:05:45 PM [Eastern Standard Time] \* SVR:USPTO-EFXXF-1/7 \* DNIS:2738300 \* CSID:617 535 3869 \* DURATION (mm-ss):01-12

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PATENT  
Attorney Docket No. 068911-0060

## IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

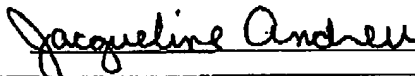
In re Application of: )  
)  
Tripp, et. al ) Group Art Unit: 1655  
)  
Serial No.: 10/689,856 ) Examiner: Meller, Michael V.  
)  
Filed: October 20, 2003 ) Confirmation No.: 3345  
)  
For: COMPOSITIONS THAT TREAT )  
OR INHIBIT PATHOLOGICAL )  
CONDITIONS ASSOCIATED )  
WITH INFLAMMATORY )  
RESPONSE )

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Sir:

**RESPONSE TO RESTRICTION REQUIREMENT**

In a restriction requirement dated November 13, 2006, the Examiner required restriction under 35 U.S.C. § 121 between Group I, claims 214-221 and Group II, claims 222-229. Applicants provisionally elect to prosecute Group I, claims 214-221 drawn to a method of preserving joint health with traverse.

In the interest of furthering the prosecution, Applicants hereby elect dihydro-isohumulone in the genus of the first component. Applicants further elect oleanolic acid in the genus of the second component, without prejudice against future claims directed to other species.

Applicants traverse the Examiner's argument for restriction and respectfully submit that claims of Groups I and II are related by, e.g., operation and/or effect. Applicants disagree with the Examiner as to the basis of the restriction requirement. It is noted that a search directed to the composition claims (222-229) would per force also address the patentability of the method claims which mirror the composition claims. Contrary to the Examiner's statement in paragraph 1, page 3, Applicants do not believe that considering both groups of claims would be a serious burden on the Examiner if a restriction is not required. Searching of the species in either of the claim groups would necessarily and inevitably uncover any methods or compositions relating to these species. Therefore, it would not create a serious burden on the Examiner to consider the two claim groups simultaneously.

Accordingly, Applicants request reconsideration and withdrawal of the restriction requirement between claim Groups I and II.


Please grant any extensions of time required to enter this response and charge any additional required fees to our deposit account 50-1133.

Respectfully submitted,

McDermott Will & Emery, L.L.P.

Dated: December 13, 2006

By:

  
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